SAN DIEGO COASTKEEPER

CERF COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

September 7, 2016

VIA CERTIFIED MAIL

San Diego Unified Port District
Attn: Jason Giffen
PO Box 120488
San Diego, CA 92112

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

San Diego Unified Port District
Attn: Randa Coniglio
PO Box 120488
San Diego, CA 92112

Re: Clean Water Act Notice of Intent to Sue/60-Day Notice Letter
National City Marine Terminal Violations of General Industrial Permit

Dear Mr. Giffen:

Please accept this letter on behalf of the Coastal Environmental Rights Foundation (CERF) and San Diego Coastkeeper (Coastkeeper) regarding National City Marine Terminal's violations of the State Water Resources Control Board Water Quality Order Nos. 97-03-DWQ and 2014-0057-DWQ, Natural Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000001, and Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities (General Industrial Permit).[1] This letter constitutes CERF and Coastkeeper's notice of intent to sue for violations of the Clean Water Act and General Industrial Permit for the National City Marine Terminal located at 1400 W. Bay Marina Street, National City California 91950 ("NCMT", "NCMT Facility" or "Facility"), as set forth in more detail below.

Section 505(b) of the Clean Water Act requires that sixty (60) days prior to the initiation of a citizen's civil lawsuit in Federal District Court under Section 505(a) of the Act, a citizen must give notice of the violations and the intent to sue to the violator, the Administrator of the U.S. Environmental Protection Agency, the Regional Administrator of the U.S. Environmental Protection Agency for the region in which the violations have occurred, the U.S. Attorney General, and the Chief Administrative

[1] On April 1, 2014, the State Water Resources Control Board adopted Order No. 2014-0057-DWQ, which amends the Industrial General Permit ("New Industrial Permit"). These amendments became effective on July 1, 2015. All references to the General Industrial Permit are to the Permit as it existed at the time of the violations noted herein. The 2015 Permit superseded the 1997 Permit, except for enforcement purpose, and its terms are as stringent, or more stringent, than the terms of the 1997 Permit. *See* 2015 Permit, Findings, Paragraph 6. Accordingly, Facility is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available as remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) ("Limitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect.").

Officer for the State in which the violations have occurred (33 U.S.C. § 1365(b)(1)(A)). This letter provides notice of NCMT's Clean Water Act violations and CERF and Coastkeeper's intent to sue.

I. Citizen Groups

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, CA. CERF is dedicated to the preservation, protection and defense of the environment, the wildlife, and the natural resources of the California Coast. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, CA 92024.

Coastkeeper is a nonprofit organization committed to protecting and restoring the San Diego region's water quality and supply. A member of the international Waterkeeper Alliance, Coastkeeper's main purpose is to preserve, enhance, and protect San Diego's waterways, marine sanctuaries, coastal estuaries, wetlands, and bays from illegal dumping, hazardous spills, toxic discharges, and habitat degradation. Coastkeeper implements this mission through community outreach, education, activism, participation in governmental hearings, and prosecuting litigation to ensure that San Diego's beaches, bays, coastal waters and tributary streams and rivers meet all substantive water quality standards guaranteed by Federal, State, and local statues and regulations. Coastkeeper's office is located at 2825 Dewey Road, Suite 200 in San Diego, California 92106.

Members of CERF and Coastkeeper use and enjoy the waters into which pollutants from NCMT's ongoing illegal activities are discharged, namely Sweetwater River, San Diego Bay, and the Pacific Ocean (Receiving Waters). The public and members of CERF and Coastkeeper use these Receiving Waters to fish, boat, kayak, surf, swim, scuba dive, birdwatch, view wildlife, and to engage in scientific studies. Procedural and substantive violations of the Stormwater Permit including, but not limited to, the discharge of pollutants by NCMT Facility affect and impair each of these uses. Thus, the interests of CERF and Coastkeeper's members have been, are being, and will continue to be adversely affected by NCMT Owners and/or Operators' failure to comply with the Clean Water Act and the General Industrial Permit.

II. National City Marine Terminal Facility, Storm Water Pollution, and the General Industrial Permit

A. Duty to Comply

Under the Clean Water Act, the discharge of any pollutant to a water of the United States is unlawful except in compliance with certain provisions of the Clean Water Act. (See 33 U.S.C. § 1311 (a)). In California, any person who discharges storm water associated with industrial activity must comply with the terms of the General Industrial Permit in order to lawfully discharge.

Information available to Citizen Groups indicates that the NCMT Facility is operated by the San Diego Unified Port District, as formed under the San Diego Unified Port District Act. (Cal. Harb. & Nav. Code § App. 1). The SMARTS database and 2015 SWPPP list Randa Coniglio as the agency's Legally Responsible Person (LRP). The SMARTS database lists Jason Giffen as Owner/Operator Contact and San Diego Unified Port District ("Port") as Owner/Operator. The 2015 Notice of Intent lists Jason Giffen as Facility Operator. Citizen Groups refer to the Port, Randa Coniglio, and Jason Giffen collectively as

NCMT Facility "Owner and/or Operator". Information available to Citizen Groups indicates the Facility is approximately 125 acres, at least 117 acres of which are considered impervious. The Facility property is bordered by Sweetwater River and San Diego Bay to the south, San Diego Bay to the east, San Diego Bay and industrial areas to the north, and industrial areas to the east.

Information available to Citizen Groups further indicates the portion of the facility covered by the General Industrial Permit is mainly utilized for vehicle loading and offloading; vehicle and equipment maintenance; vehicle fueling and washing; materials and waste storage; vehicle storage; and trash and recycled materials storage and handling. Information available to Citizen Groups indicates the facility is assigned the Standard Industrial Classification codes of 4491 under the category of "Marine Cargo Handling" and 4412 defined as "Deep Sea Foreign Transport of Freight." The NCMT's impervious facilities include paved parking lots, loading and unloading areas, processing facilities for post-production paint and body repair, assembly warehouses, body shop warehouses, a car wash, a mechanic shop transit shed, material storage areas, waste storage and trash compaction areas, ancillary structures, berths, and railroad tracks. Uncovered portions of the site are generally impervious (paved concrete or asphalt). The majority of the Facility is paved and is graded to direct surface runoff into an on-site storm drain system that discharges to the San Diego Bay, or sheet flows directly to the west and south into the San Diego Bay. At least twelve (12) discreet discharge points discharge pollutants into receiving waters from the Facility, draining at least five distinct drainage areas.

According to information available to Citizen Groups, all activities required for commercial export and import of automobiles occur at the NCMT Facility. The-industrial activities and areas at the NCMT Facility are pollutant sources and include, but are not limited to: car paint and body repair; materials handling and storage, including but not limited to hydraulic oils, paints, and other materials; trash and waste handling, recycling, storage, and compacting; loading, staging, unloading, and transport of vehicles and cargo; vehicle storage; forklift and vehicle activities; and facility and equipment maintenance including vehicle and vessel maintenance, repair, washing, and fueling.

NCMT enrolled as a discharger subject to the General Industrial Permit April 21, 1992, for its facility located at 1400 W. Bay Marina Street, National City California 91950. NCMT enrolled under the New Industrial Permit on May 5, 2015, WDID Number 9 37I006108.

Storm water discharges from marine cargo handling facilities, like the NCMT Facility, contain pollutants such as solids, solvents, fuel, oil, and toxic heavy metals (such as copper, lead, and zinc). Some of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm. San Diego Bay is on the 303(d) list as impaired for numerous constituents, including sediment toxicity, copper, zinc, mercury, benthic community effects, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and bacteria. The Sweetwater Marsh National Wildlife Refuge (NWF) is located immediately to the south and adjacent to the Facility site. The NWF provides habitat for endangered and threatened species, and over 200 species of birds have been witnessed there. Further, the NWF provides unique coastal salt marsh habitat for an array of invertebrates and juvenile fish. Polluted discharges from industrial sites such as the NCMT Facility contribute to the degradation of these already impaired surface waters and of the ecosystems and wildlife that depend on them.

Pursuant to Section C(1) of the General Industrial Permit, a facility operator must comply with all conditions of the General Industrial Permit. (See New Industrial Permit, §I.A.8. [dischargers must

"comply with all requirements, provisions, limitations, and prohibitions in this General Permit."]). Failure to comply with the General Industrial Permit is a Clean Water Act violation. (General Industrial Permit, § C.1; New Industrial Permit §XXI.A.). Any non-compliance further exposes an owner/operator to: (a) enforcement action; (b) General Industrial Permit termination, revocation and re-issuance, or modification; or, (c) denial of a General Industrial Permit renewal application. As an enrollee, NCMT has a duty to comply with the General Industrial Permit and is subject to all of the provisions therein.

B. Failure to Monitor and Report

The NCMT Facility Owner and/or Operator has failed, and continues to fail, to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, in each Annual Report since the filing of the 2010-2011 Annual Report, the NCMT Facility Owner and/or Operator certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the General Industrial Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and, (3) the SWPPP complies with the General Industrial Permit, or will otherwise be revised to achieve compliance. However, information available to Citizen Groups indicates these certifications are erroneous. For example, although storm water samples collected from the Facility have consistently contained elevated concentrations of pollutants, thereby demonstrating that BMPs must be revised, the Annual Report fails to address pollutant exceedances or to propose BMP revisions as required by the Stormwater Permit.

The NCMT Facility Owner and/or Operator has also submitted incomplete Annual Reports. For instance, the facility operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including: (1) a description of the noncompliance and its cause; (2) the period of noncompliance; (3) if the noncompliance has not been corrected, the anticipated time it is expected to continue; and, (4) steps taken or planned to reduce and prevent recurrence of the noncompliance. General Industrial Permit, Section C(11)(d). The NCMT Facility Owner and/or Operator did not report its non-compliance as required.

The General Industrial Permit requires a permittee whose discharges violate the Storm Water Permit Receiving Water Limitations to submit a written report identifying additional BMPs to be implemented to achieve water quality standards. General Industrial Permit, Receiving Water Limitations C(3) and C(4). Information available to Citizen Groups indicates the NCMT Facility Owner and/or Operator has failed to submit the reports required by Receiving Water Limitations C(3) and C(4) of the 1997 Permit. As such, the NCMT Facility Owner and/or Operator is in daily violation of this requirement of the Storm Water Permit.

The General Industrial Permit requires a permittee to collect samples from each drainage area at all discharge locations. General Industrial Permit Section B.5. and B.7.; New Industrial Permit XI.B.4. The samples must be representative of storm water associated with industrial activities and any comingled authorized NSWDs. Section B. 7.; XI.B.4. Exceptions to the requirement of sampling each discharge location and drainage area are limited. See General Industrial Permit Section B.7.c. and d.; XI.C.4. Even under these limited exceptions, chosen sample locations must be documented to be substantially identical to, and still representative of, the Facility's stormwater discharges and drainage areas. Section B.7. and XI.C.4. The June 2015 SWPPP indicates the Facility has twelve (12) discreet discharge locations in five (5) drainage areas that include industrial activities that are exposed to stormwater. See SWPPP Section 7.3. and 7.5.2. Despite the fact that twelve discharge points exist throughout five drainage areas, the

NCMT Owners and/or Operators have continuously sampled only (5) locations. See 2015 SWPPP, Table 7.2, p. 52. In most (if not all) cases, those sample locations are up-gradient from actual stormwater discharge locations and thus are not representative of stormwater discharges, as additional down-gradient pollutants are exposed to stormwater discharged from the Facility. Furthermore, prior to the 2015-2016 season, NCMT Owner and/or Operator sampled only four (4) discharge points labelled as NCMT-1, NCMT-2, NCMT-3, and NCMT-4, despite the presence of other discharge points. Additionally, NCMT Owners and/or Operators have consistently failed to sample discharges from Drainage Area D4 despite the clear presence, both past and ongoing, of industrial activities conducted in that drainage area. *See* SWPPP. p. 51, Site Map of June 2015, and Exhibit B.[1] In further violation of the General Industrial Permit, the 2015 SWPPP fails to explain how chosen sample locations are representative of stormwater discharges from the entire Facility. Rather, they summarily conclude without further explanation only that sampled locations have been, "selected as an alternate discharge sample location that is representative of the industrial stormwater discharges" in various drainage areas.

Furthermore, the NCMT Owners and/or Operators have failed to sample as required under the General Industrial Permit. Through the 2011-2016 reporting period, facility operators were required to analyze stormwater samples for total suspended solids, copper, zinc, aluminum, lead, iron, oil and grease, pH, and any other pollutants which are likely to be present in significant quantities in stormwater discharging from the facility and at each discharge point. Available stormwater data throughout this period illustrates that the NCMT Facility has failed to consistently sample and/or report for each of these pollutants. For example, the NCMT Owner and/or Operator failed to sample for zinc during the April 8, 2016 rain event. Furthermore, during the first rain event of the 2011-2012 reporting year (10/5/2011), the NCMT-2 discharge location was not sampled and/or reported. Finally, only one storm event was sampled during the 2012-2013 reporting year.

The NCMT Owners and/or Operators had numerous opportunities to adequately sample and report but have failed, and continue to fail, to do so. They are thus subject to penalties in accordance with the General Industrial Permit – punishable by a minimum of $37,500 per day of violation. (33 U.S.C. §1319(d); 40 CFR 19.4).

C. The NCMT Facility Discharges Contaminated Storm Water in Violation of the General Industrial Permit and Effluent Limitation Guidelines and Clean Water Act

i. Discharges of Polluted Storm Water from the NCMT Facility in Violation of Discharge Prohibitions and Effluent Limitations of the Storm Water Permit

The NCMT Owners and/or Operators' monitoring reports indicate consistent exceedances and violations of the General Industrial Permit. Discharge Prohibition A(2) of the General Industrial Permit

[1] The SWPPP states, "industrial activities within Drainage Area D4 include cargo staging, loading and unloading," and that stormwater exposure to pollutants includes, "drips or leaks from equipment used in the loading activity (e.g. forklifts)." SWPPP, p. 51. Pollutants conveyed, carried, and transported via forklift and comingled with stormwater are subject to coverage under the Industrial General Permit, and forklifts themselves qualify as point sources under the Clean Water Act. See *San Francisco Baykeeper v. Levin Enterprises Inc.*, 12 F. Supp.3d 1208; *Ecological Rights Foundation vs. Pacific Gas and Elec. Co.*, 713 F.3d 502.

and New Industrial Permit Sections III.C-D prohibit storm water discharges and authorized non-storm water discharges which cause or threaten to cause pollution, contamination, or nuisance.

Effluent Limitations of the Industrial Storm Water Permit require dischargers to reduce or prevent pollutants in their storm water discharges through implementation of best management practices ("BMPs") that achieve best available technology economically achievable ("BAT") for toxic pollutants[2] and best conventional pollutant control technology ("BCT") for conventional pollutants.[3] Effluent Limitations are found in Section B(3) of the General Industrial Permit and Section V.A. of the New Permit. EPA Benchmark Levels are relevant and objective guidelines to evaluate whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitations of the Stormwater Permit.[4]

Storm water sampling at the NCMT Facility demonstrates that the Facility's storm water discharges contain concentrations of pollutants above the Benchmark Levels. *See* Exhibit A (table listing the Facility's storm water samples exceeding Benchmark Level(s), as reported to the Regional Board by the NCMT Facility Owner and/or Operator). For example, the saltwater EPA benchmark for copper is 0.0048 mg/L. A storm water sample collected from the Facility in December 2015 exceeded the saltwater EPA Benchmark for copper by over ninety-eight (98) times. Samples collected from the Facility in March 2016 exceeded the EPA Benchmark for iron (1.0 mg/L) by almost five (5) times, the EPA Benchmark for aluminum (0.75 mg/L) by almost five (5) times, and the saltwater EPA Benchmark for copper (0.0048 mg/L) by over ninety-six (96) times. There are multiple violations every year with every single storm event reported for the past five years. *See* Exhibit A. In fact, since August 2011, the NCMT has exceeded applicable water quality standards at least 136 times. The repeated and significant exceedances of Benchmark Levels demonstrate the NCMT Facility Owner and/or Operator has failed and continues to fail to develop and/or implement required BMPs at the Facility that achieve compliance with the BAT/BCT standards.

The New Permit establishes numeric action levels ("NALs") which are pollutant levels in discharges that, if exceeded, indicate that a facility's BMPs are inadequately developed or implement, or both, and must be improved. New Permit, Fact Sheet at 55-60. The sampling from discharges from the IMS Facility exceed the NALs for copper, zinc, iron, and aluminum. These exceedances are further evidence demonstrating that Facility has and continues to fail to develop, implement, and/or maintain BMPs to reduce pollutant levels in storm water discharges as required by the Storm Water Permit, and that Facility has not developed or implemented, or revised, a SWPPP as required by the Storm Water Permit.

Citizen Groups put NCMT Owner and/or Operator on notice that the Effluent Limitations are violated each time storm water discharges from the Facility. These discharge violations are ongoing and will continue every time the Facility discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Each time NCMT

[2] BAT is defined at 40 CFR § 442.23. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.
[3] BCT is defined at 40 C.F.R. § 442.22. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.
[4] *See* EPA Multi-Sector General Permit (2015), Fact Sheet, p. 52; *see also*, EPA Proposed Multi-Sector General Permit (2013), Fact Sheet, p. 50; EPA Multi-Sector General Permit (2008), Fact Sheet, p. 106; EPA Multi-Sector General Permit, 65 Federal Register 64839 (2000).

discharges polluted storm water in violation of Effluent Limitations B(3) of the Permit and V.A. of the New permit is a separate and distinct violation of the Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). NCMT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since September 7, 2011.

Citizen Groups put NCMT Facility Owner and/or Operator on notice that the 2015 Permit Effluent Limitation V.A. is a separate, independent requirement with which Facility must comply, and that carrying out the iterative process triggered by exceedances of the NALs listed in Table 2 of the 2015 Permit does not amount to compliance with the Permit's Effluent Limitations. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent technology based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT.[5] Finally, even if Facility submits an Exceedance Response Action Plan(s) pursuant to Section XII. of the 2015 Permit, the violations of Effluent Limitation V.A. described in this Notice Letter are ongoing.

Because the NCMT's discharge violations are ongoing, post July 1, 2015, each storm water discharge from the NCMT Facility constitutes a violation of Sections I(D), X(H), and Effluent Limitation V.A. of the New Permit. The repeated and significant exceedances of water quality standards and Benchmark Levels demonstrate that the NCMT Facility Owner and/or Operator has failed and continues to fail to develop and/or implement required BMPs at the Facility that achieve compliance with the BAT/BCT standards. The NCMT Owner and/or Operator's failure to develop and/or implement BMPs adequate to achieve the pollutant discharge reductions attainable via BAT or BCT at the Facility is a violation of the Industrial Stormwater Permit and the CWA. *See* General Industrial Permit, Order Part B(3); New Permit Sections I(D) (Findings 32 and 33), X(H), V(A); 33 U.S.C. §1311(b).

The NCMT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since at least September 7, 2011.[6]

ii. Discharges of Polluted Storm Water from the NCMT Facility in Violation of Receiving Water Limitations of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) prohibits storm water discharges and otherwise-authorized non-storm water discharges which cause or contribute to an exceedance of any water quality standards or applicable Basin Plan water quality standards. (See New Industrial Permit Receiving Water Limitations VI.A-C). In addition, Receiving Water Limitation VI.C. of the New Industrial Permit prohibits discharges that contain pollutants in quantities that threaten to cause pollution or a public nuisance.

[5] "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, finding 63, p. 11. Exceedances of the NALS do, however, trigger reporting requirements. See 2015 Permit, Section XII.
[6] Sections 309(d) and 505 of the CWA, 33 U.S.C. §§1319(d) and 1365.

The California Toxics Rule ("CTR"), 40 C.F.R. 131.38, is an applicable water quality standard ("WQS"). (*Baykeeper v. Kramer Metals, Inc.* (C.D.Cal. 2009) 619 F.Supp.2d 914, 926). "In sum, the CTR is a water quality standard in the General Permit, Receiving Water Limitation C(2). A permittee violates Receiving Water Limitation C(2) when it 'causes or contributes to an exceedance of' such a standard, including the CTR." (*Id.* at 927).

As explained above, the current 303(d) List of Impaired Water Bodies lists San Diego Bay as impaired for multiple pollutants. Information available to Citizen Groups indicates the NCMT Facility's storm water discharges contain elevated concentrations of pollutants, such as copper, lead, aluminum, iron, and zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the San Diego Bay. *See e.g.,* Exhibit A (table listing the Facility's storm water samples containing pollutants at elevated levels). Discharges of elevated concentrations of pollutants in the storm water from the NCMT Facility also adversely impact human health. These harmful discharges from the NCMT Facility are violations of Receiving Water Limitations C(1) of the General Industrial Permit, VI.B. of the New Permit, and the Clean Water Act.

The NCMT Facility storm water discharges also contain concentrations of pollutants that cause or contribute to violations of applicable WQSs. *See* Exhibit A (table listing the Facility's storm water samples exceeding applicable WQSs, as reported to the Regional Board by the NCMT Facility Owner and/or Operator). Storm water discharges from the NCMT Facility that cause or contribute to exceedances of WQSs are violations of Receiving Water Limitation C(2) of the General Industrial Permit, VI.A. of the New Permit, and the Clean Water Act.

If a discharger violates Water Quality Standards, the General Industrial Permit and the Clean Water Act require that the discharger implement progressively more stringent controls necessary to meet such Water Quality Standards. (General Industrial Permit, Fact Sheet p. viii; 33 U.S.C. § 1311(b)(I)(C)). The NCMT Owners and/or Operators have failed to comply with this requirement, routinely violating Water Quality Standards without implementing new and different BMPs to achieve BAT/BCT or revising the Facility's SWPPP pursuant to General Industrial Permit section (C)(3) and New Industrial Permit Section X.B.1.

As demonstrated by sample data submitted by NCMT itself, from at least September 7, 2011 through the present, the NCMT Owners and/or Operators have discharged and continue to discharge storm water containing pollutants at levels in violation of water quality standards, prohibitions, and receiving water limitations during every significant rain event. The NCMT Facility's sampling data reflects numerous ongoing discharge violations. See Exhibit A. NCMT's own sampling data is not subject to impeachment. (*Baykeeper, supra*, 619 F.Supp. 2d at 927, citing *Sierra Club v. Union Oil Co. of Cal.*, (9th Cir. 1987) 813 F.2d 1480, 1492 ["when a permittee's reports indicate that the permittee has exceeded permit limitations, the permittee may not impeach its own reports by showing sampling error"]). The Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Receiving Water Limitations. Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Permit, Receiving Water Limitation VI.A. of the New Permit, and Section 301(a) of the Clean Water At, 33 U.S.C. § 1311(a). Each time discharges from the Facility adversely impact health or the environment is a separate and distinct violation of Receiving Water

Limitation C(1) of the Permit, Receiving Water Limitation of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

Exhibit A further demonstrates the NCMT Facility continuously discharges contaminated storm water during rain events which have not been sampled.

Citizen Groups put NCMT Facility Owner and/or Operator on notice that the 2015 Permit Receiving Water Limitations are separate, independent requirements with which Facility must comply, and that carrying out the iterative process triggered by exceedances of the NALs listed in Table 2 of the 2015 Permit does not amount to compliance with the Permit's Receiving Water Limitations. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a water quality standard.[7] Finally, even if NCMT Owner and/or Operators submit an Exceedance Response Action Plan(s) pursuant to Section XII. of the 2015 Permit, the violations of the Receiving Water Limitations described in this Notice Letter are ongoing.

D. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan (SWPPP)

One of the main requirements for the General Industrial Permit is the Storm Water Pollution Prevention Plan (SWPPP). (General Industrial Permit §A; New Industrial Permit §X.). The primary objective of the SWPPP is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. See Permit, Section A(2) and New Permit Section something or other. These BMPs much achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. NCMT Facility Owner and/or Operator has not developed an adequate SWPPP as required by the General Permit or New Industrial Permit, with required elements noticeably absent from the NCMT Facility SWPPP. (New Industrial Permit, § X.a.1-10).

The Stormwater Permit requires dischargers to develop and implement a SWPPP that meets all of the requirements of the Storm Water Permit prior to beginning industrial activities. *See* General Industrial Permit Section A(1)(a) and Order Part E(2); New Permit Sections I(I) (Finding 54), X(B). The SWPPP must identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of stormwater and authorized non-stormwater discharges from the NCMT Facility. *See* General Industrial Permit Section A(2); New Permit, Section X(G). The objective of the SWPPP is to identify and implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in stormwater and authorized non-stormwater discharges. *See* General Industrial Permit Section A(2); New Permit Section X(H). These BMPs must achieve compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations and Receiving Water Limitations. *See* General Industrial Permit Order Part B(3); New Permit Sections I(D) (Finding 32), V.A. The SWPPP and site maps must be assessed

[7] "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 3015 Permit, finding 63, p. 11. Exceedances of the NALS do, however, trigger reporting requirements. See 2015 Permit, Section XII.

annually and revised as necessary to ensure compliance with the Stormwater Permit. *See* General Industrial Permit Sections A(1), A(9)-(10), B(3)-(4); New Permit, Sections I(J) (Finding 55), X(B)(1).

Sections A(3) through A(10) of the Permit set out the requirements for a SWPPP. Among other requirements, the SWPPP must include the following: a pollution prevent team; a site map with detailed demarcations of potential pollutant sources, storm water flows, and discharge/sampling points; a description and assessment of potential pollutant sources; and a description of BMPs, including both structural and non-structural techniques. Section X(D)-X(I) of the New Permit sets for essentially the same SWPPP requirements, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as advanced BMPs as necessary to achieve BAT/BCT. See New Permit § X(H). The 2015 Permit further requires certain SWPPP enhancements, including a more comprehensive assessment of potential pollutant sources and more specific BMP descriptions. See New Permit X(G)(2), (4), (5).

The NCMT Facility Owners and/or Operators have failed and continue to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. The SWPPP inadequacies are documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQSs. *See, e.g.,* Exhibit A. The SWPPP fails to account for the numerous and repeated violations identified by NCMT's monitoring data, thereby ensuring these violations continue. The SWPPP is therefore inadequate both in fact and as a matter of law. (See New Industrial Permit §I.E.37. ["Compliance with water quality standards may, in some cases, require Dischargers to implement controls that are more protective than controls implemented solely to comply with the technology-based requirements in this General Permit."]).

NCMT Facility's Owner and/or Operator has failed and continues to fail to adequately develop, maintain, or implement a SWPPP at the Facility that prevents discharges from violating the Discharge Prohibitions, Effluent Limitations and Guidelines, and Receiving Water Limitations of the Industrial Stormwater Permit. Further, if a discharger determines industrial discharges contain pollutants in violation of Receiving Water Limitations (Section VI), the discharger is required to assess the BMPs in the SWPPP and determine whether additional measures and a revised SWPPP are necessary. (New Industrial Permit, §XX.B.1). Indeed, the SWPPP itself recognizes its own shortcomings in its Pollutant Source Assessment of Outdoor Materials and Storage areas in Drainage Areas D2, D3, and D5 by acknowledging, "additional BMPs are needed" in response to the question, "How effective are the existing BMPs at reducing or preventing pollutants in industrial stormwater or NSWDs?" Finally, Form 4 Visual Observation Forms for the date March 25, 2012 noted that stormwater discharge was "coffee colored", but further provides only that the pollutant source is "unkn" and no additional action is proposed. Similarly, Form 4 for December 12, 2014 notes, "stormwater entering sample location NCMT-4 was slightly cloudy and brown in color," and notes, "no additional BMPs implemented". This, despite samples at NCMT-4 on that date showed exceedances for aluminum, iron, zinc, and copper.

Every day the NCMT Owners and/or Operators operate the Facility without an adequate SWPPP is a separate and distinct violation of the General Industrial Permit, New Industrial Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The NCMT Owners and/or Operators have been in daily and continuous violation of the General Industrial Permit and New Industrial Permit since at least September 7, 2011. These violations are ongoing and the NCMT Owners and/or Operators will continue to be in violation every day they fail provide an adequate SWPPP for the Facility. Thus, the NCMT

Owners and/or Operators are liable for civil penalties of up to $37,500 per day of violation for 1,825 violations of the General Industrial Permit and the Clean Water Act.

E. Unpermitted Discharges

Section 301(a) of the CWA prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES permit issued pursuant to section 402 of the CWA. See 33 U.S.C. §§ 1311(a), 1342. NCMT Facility Owner and/or Operators have sought coverage for the Facility under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit "must be either eliminated or permitted by a separate NPDES permit." General Industrial Permit, Order Part A(1); *See also* New Permit, Section III.A. Because NCMT Facility Owner and/or Operators have not obtained coverage under a separate NPDES permit and have failed to eliminate discharges not permitted by the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA permit coverage in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

III. Remedies

Upon expiration of the 60-day period, CERF and Coastkeeper will file in federal court a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, CERF and Coastkeeper are willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions prior to initiation of litigation, it is suggested that you contact us immediately.

To be clear, NCMT must develop and implement an updated SWPPP, install BMPs to address the numerous and ongoing water quality violations, and implement a complete and robust monitoring and reporting plan. Should the NCMT Owners and/or Operators fail to do so, CERF and Coastkeeper will file an action against NCMT for its prior, current, and anticipated violations of the Clean Water Act. CERF and Coastkeeper's action will seek all remedies available under the Clean Water Act § 1365(a)(d). CERF and Coastkeeper will seek the maximum penalty available under the law ($37,500 per day).

CERF and Coastkeeper may further seek a court order to prevent NCMT from discharging pollutants. A strong or substantial likelihood of success on the merits of CERF and Coastkeeper's claims exists, and irreparable injuries to the public, public trust resources, and the environments will result if the Facility continues to discharge pollutants into Receiving Waters. The cessation of the Facility's discharge will not cause substantial harm to others, and the public interest would be served in preventing discharge of pollutants into receiving waters.

Lastly, section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorneys' and experts' fees. CERF and Coastkeeper will seek to recover all of their costs and fees pursuant to section 505(d).

IV. Conclusion

CERF and Coastkeeper have retained legal counsel to represent it in this matter. Please direct all communications regarding this correspondence to CERF and Coastkeeper's legal counsel:

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If you wish to pursue settlement discussions in the absence of litigation, please contact Coast Law Group LLP and San Diego Coastkeeper immediately.

Sincerely,

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EXHIBIT A

No.	Date of sample	Sample ID	Parameter*	Result	CTR Standard	Magnitude of CTR Exceedance	MSGP Benchmark	Magnitude of MSGP Benchmark Exceedance	NAL	NAL Exceedance
1	4/7/2016	NCMT-7	Copper Total	0.103	0.0048	21.46	0.0048	21.46	0.0332	3.10
2	4/7/2016	NCMT-8	Copper Total	0.072	0.0048	15.00	0.0048	15.00	0.0332	2.17
3	3/7/2016	NCMT-5	Aluminum Total	3.04			0.75	4.05	0.75	4.05
4	3/7/2016	NCMT-5	Copper Total	0.269	0.0048	56.04	0.0048	56.04	0.0332	8.10
5	3/7/2016	NCMT-5	Iron Total	4.29			1	4.29	1	4.29
6	3/7/2016	NCMT-5	Total Suspended Solids (TSS)	224			100	2.24	100	2.24
7	3/7/2016	NCMT-5	Zinc Total	0.712	0.09	7.91	0.09	7.91	0.26	2.74
8	3/7/2016	NCMT-6	Aluminum Total	3.68			0.75	4.91	0.75	4.91
9	3/7/2016	NCMT-6	Copper Total	0.463	0.0048	96.46	0.0048	96.46	0.0332	13.95
10	3/7/2016	NCMT-6	Iron Total	4.91			1	4.91	1	4.91
11	3/7/2016	NCMT-6	Total Suspended Solids (TSS)	122			100	1.22	100	1.22
12	3/7/2016	NCMT-6	Zinc Total	0.442	0.09	4.91	0.09	4.91	0.26	1.70
13	3/7/2016	NCMT-7	Copper Total	0.105	0.0048	21.88	0.0048	21.88	0.0332	3.16
14	3/7/2016	NCMT-7	Zinc Total	0.199	0.09	2.21	0.09	2.21	0.26	0.77
15	3/7/2016	NCMT-8	Aluminum Total	2.64			0.75	3.52	0.75	3.52
16	3/7/2016	NCMT-8	Copper Total	0.119	0.0048	24.79	0.0048	24.79	0.0332	3.58
17	3/7/2016	NCMT-8	Iron Total	4.29			1	4.29	1	4.29
18	3/7/2016	NCMT-8	Total Suspended Solids (TSS)	154			100	1.54	100	1.54
19	3/7/2016	NCMT-8	Zinc Total	0.384	0.09	4.27	0.09	4.27	0.26	1.48
20	3/7/2016	NCMT-9	Copper Total	0.026	0.0048	5.42	0.0048	5.42	0.0332	0.78
21	3/7/2016	NCMT-9	Zinc Total	0.156	0.09	1.76	0.09	1.76	0.26	0.61
22	1/31/2016	NCMT-5	Aluminum Total	1.3			0.75	1.73	0.75	1.73
23	1/31/2016	NCMT-5	Copper Total	0.062	0.0048	12.92	0.0048	12.92	0.0332	1.87
24	1/31/2016	NCMT-5	Iron Total	1.77			1	1.77	1	1.77
25	1/31/2016	NCMT-5	Total Suspended Solids (TSS)	208			100	2.08	100	2.08
26	1/31/2016	NCMT-5	Zinc Total	0.24	0.09	2.67	0.09	2.67	0.26	0.92
27	1/31/2016	NCMT-7	Aluminum Total	1.63			0.75	2.17	0.75	2.17
28	1/31/2016	NCMT-7	Copper Total	0.246	0.0048	51.25	0.0048	51.25	0.0332	7.41
29	1/31/2016	NCMT-7	Iron Total	2.81			1	2.81	1	2.81
30	1/31/2016	NCMT-7	Total Suspended Solids (TSS)	592			100	5.92	100	5.92
31	1/31/2016	NCMT-7	Zinc Total	0.388	0.09	4.31	0.09	4.31	0.26	1.49
32	1/31/2016	NCMT-8	Aluminum Total	1.42			0.75	1.89	0.75	1.89
33	1/31/2016	NCMT-8	Copper Total	0.086	0.0048	17.92	0.0048	17.92	0.0332	2.59
34	1/31/2016	NCMT-8	Iron Total	1.89			1	1.89	1	1.89
35	1/31/2016	NCMT-8	Zinc Total	0.199	0.09	2.21	0.09	2.21	0.26	0.77
36	1/30/2016	NCMT-9	Copper Total	0.009	0.0048	1.88	0.0048	1.88	0.0332	0.27
37	1/5/2016	NCMT-5	Copper Total	0.046	0.0048	9.58	0.0048	9.58	0.0332	1.39
38	1/5/2016	NCMT-5	Zinc Total	0.209	0.09	2.32	0.09	2.32	0.26	0.80
39	1/5/2016	NCMT-6	Copper Total	0.253	0.0048	52.71	0.0048	52.71	0.0332	7.62
40	1/5/2016	NCMT-6	Zinc Total	0.172	0.09	1.91	0.09	1.91	0.26	0.66
41	1/5/2016	NCMT-7	Aluminum Total	3.17			0.75	4.23	0.75	4.23
42	1/5/2016	NCMT-7	Copper Total	0.173	0.0048	36.04	0.0048	36.04	0.0332	5.21
43	1/5/2016	NCMT-7	Iron Total	4.28			1	4.28	1	4.28
44	1/5/2016	NCMT-7	Total Suspended Solids (TSS)	120			100	1.20	100	1.20
45	1/5/2016	NCMT-7	Zinc Total	0.226	0.09	2.51	0.09	2.51	0.26	0.87
46	1/5/2016	NCMT-8	Copper Total	0.031	0.0048	6.46	0.0048	6.46	0.0332	0.93
47	1/5/2016	NCMT-8	Zinc Total	0.097	0.09	1.08	0.09	1.08	0.26	0.37
48	1/5/2016	NCMT-9	Copper Total	0.005	0.0048	1.04	0.0048	1.04	0.0332	0.15
49	1/5/2016	NCMT-9	Lead Total	NOT SAMPLED AND/OR REPORTED						
50	1/5/2016	NCMT-9	O&G	NOT SAMPLED AND/OR REPORTED						
51	1/5/2016	NCMT-9	Zinc Total	0.022	0.09	0.24	0.09	0.24	0.26	0.08
52	12/28/2015	NCMT-6	Aluminum Total	2.09			0.75	2.79	0.75	2.79
53	12/28/2015	NCMT-6	Copper Total	0.047	0.0048	9.79	0.0048	9.79	0.0332	1.42
54	12/28/2015	NCMT-6	Iron Total	2.76			1	2.76	1	2.76
55	12/28/2015	NCMT-6	Total Suspended Solids (TSS)	178			100	1.78	100	1.78
56	12/28/2015	NCMT-6	Zinc Total	0.468	0.09	5.20	0.09	5.20	0.26	1.80
57	12/28/2015	NCMT-8	Aluminum Total	1.5			0.75	2.00	0.75	2.00
58	12/28/2015	NCMT-8	Copper Total	0.141	0.0048	29.38	0.0048	29.38	0.0332	4.25
59	12/28/2015	NCMT-8	Iron Total	2.39			1	2.39	1	2.39
60	12/28/2015	NCMT-8	Zinc Total	0.231	0.09	2.57	0.09	2.57	0.26	0.89
61	12/28/2015	NCMT-9	Aluminum Total	3.57			0.75	4.76	0.75	4.76
62	12/28/2015	NCMT-9	Copper Total	0.473	0.0048	98.54	0.0048	98.54	0.0332	14.25
63	12/28/2015	NCMT-9	Iron Total	4.88			1	4.88	1	4.88
64	12/28/2015	NCMT-9	Total Suspended Solids (TSS)	132			100	1.32	100	1.32
65	12/28/2015	NCMT-9	Zinc Total	0.278	0.09	3.09	0.09	3.09	0.26	1.07
66	12/19/2015	NCMT-7	Aluminum Total	1.37			0.75	1.83	0.75	1.83
67	12/19/2015	NCMT-7	Copper Total	0.126	0.0048	26.25	0.0048	26.25	0.0332	3.80
68	12/19/2015	NCMT-7	Iron Total	2.07			1	2.07	1	2.07
69	12/19/2015	NCMT-7	Zinc Total	0.256	0.09	2.84	0.09	2.84	0.26	0.98
70	12/19/2015	NCMT-8	Aluminum Total	1.05			0.75	1.40	0.75	1.40
71	12/19/2015	NCMT-8	Copper Total	0.116	0.0048	24.17	0.0048	24.17	0.0332	3.49
72	12/19/2015	NCMT-8	Iron Total	1.52			1	1.52	1	1.52
73	12/19/2015	NCMT-8	Zinc Total	0.283	0.09	3.14	0.09	3.14	0.26	1.09
74	12/16/2014	NCMT-2	Copper Total	0.00895	0.0048	1.86	0.0048	1.86	0.0332	0.27
75	12/16/2014	NCMT-2	Zinc Total	0.156	0.09	1.73	0.09	1.73	0.26	0.60
76	12/12/2014	NCMT-1	Copper Total	0.416	0.0048	86.67	0.0048	86.67	0.0332	12.53
77	12/12/2014	NCMT-1	Zinc Total	0.351	0.09	3.90	0.09	3.90	0.26	1.35
78	12/12/2014	NCMT-3	Copper Total	0.0461	0.0048	9.60	0.0048	9.60	0.0332	1.39
79	12/12/2014	NCMT-3	Zinc Total	0.0659	0.09	0.73	0.09	0.73	0.26	0.25
80	12/12/2014	NCMT-4	Aluminum Total	1.11			0.75	1.48	0.75	1.48
81	12/12/2014	NCMT-4	Copper Total	0.374	0.0048	77.92	0.0048	77.92	0.0332	11.27
82	12/12/2014	NCMT-4	Iron Total	1.67			1	1.67	1	1.67
83	12/12/2014	NCMT-4	Zinc Total	0.158	0.09	1.76	0.09	1.76	0.26	0.61
84	12/2/2014	NCMT-1	Copper Total	0.0993	0.0048	20.69	0.0048	20.69	0.0332	2.99
85	12/2/2014	NCMT-1	Zinc Total	0.479	0.09	5.32	0.09	5.32	0.26	1.84
86	12/2/2014	NCMT-2	Copper Total	0.0193	0.0048	4.02	0.0048	4.02	0.0332	0.58
87	12/2/2014	NCMT-2	Zinc Total	0.176	0.09	1.96	0.09	1.96	0.26	0.68
88	12/2/2014	NCMT-3	Copper Total	0.0155	0.0048	3.23	0.0048	3.23	0.0332	0.47
89	12/2/2014	NCMT-3	Zinc Total	0.135	0.09	1.50	0.09	1.50	0.26	0.52
90	12/2/2014	NCMT-4	Copper Total	0.0502	0.0048	10.46	0.0048	10.46	0.0332	1.51
91	12/2/2014	NCMT-4	Zinc Total	0.237	0.09	2.63	0.09	2.63	0.26	0.91
92	2/28/2014	NCMT-1	Copper Total	0.0151	0.0048	3.15	0.0048	3.15	0.0332	0.45
93	2/28/2014	NCMT-2	Copper Total	0.216	0.0048	45.00	0.0048	45.00	0.0332	6.51
94	2/28/2014	NCMT-2	Iron Total	1.2			1	1.20	1	1.20
95	2/28/2014	NCMT-2	Zinc Total	0.166	0.09	1.84	0.09	1.84	0.26	0.64
96	2/28/2014	NCMT-3	Copper Total	0.0095	0.0048	1.98	0.0048	1.98	0.0332	0.29
97	2/28/2014	NCMT-4	Copper Total	0.461	0.0048	96.04	0.0048	96.04	0.0332	13.89
98	2/28/2014	NCMT-4	Zinc Total	0.147	0.09	1.63	0.09	1.63	0.26	0.57
99	12/19/2013	NCMT-1	Copper Total	0.159	0.0048	33.13	0.0048	33.13	0.0332	4.79
100	12/19/2013	NCMT-1	Zinc Total	0.146	0.09	1.62	0.09	1.62	0.26	0.56
101	12/19/2013	NCMT-2	Copper Total	0.294	0.0048	61.25	0.0048	61.25	0.0332	8.86
102	12/19/2013	NCMT-2	Zinc Total	0.167	0.09	1.86	0.09	1.86	0.26	0.64
103	12/19/2013	NCMT-3	Copper Total	0.017	0.0048	3.54	0.0048	3.54	0.0332	0.51
104	12/19/2013	NCMT-3	pH	5.97			6.0 - 9.0			
105	12/19/2013	NCMT-3	Zinc Total	0.256	0.09	2.84	0.09	2.84	0.26	0.98
106	12/19/2013	NCMT-4	Copper Total	0.0638	0.0048	13.29	0.0048	13.29	0.0332	1.92
107	12/19/2013	NCMT-4	Zinc Total	0.664	0.09	7.38	0.09	7.38	0.26	2.55
108	1/25/2013	NCMT-1	Copper Total	0.0371	0.0048	7.73	0.0048	7.73	0.0332	1.12
109	1/25/2013	NCMT-2	Aluminum Total	0.796			0.75	1.06	0.75	1.06
110	1/25/2013	NCMT-2	Copper Total	0.775	0.0048	161.46	0.0048	161.46	0.0332	23.34
111	1/25/2013	NCMT-2	Iron Total	1.73			1	1.73	1	1.73
112	1/25/2013	NCMT-2	Zinc Total	0.509	0.09	5.66	0.09	5.66	0.26	1.96
113	1/25/2013	NCMT-3	Copper Total	0.0103	0.0048	2.15	0.0048	2.15	0.0332	0.31
114	1/25/2013	NCMT-4	Aluminum Total	0.827			0.75	1.10	0.75	1.10
115	1/25/2013	NCMT-4	Copper Total	0.0669	0.0048	13.94	0.0048	13.94	0.0332	2.02
116	1/25/2013	NCMT-4	Iron Total	2.04			1	2.04	1	2.04
117	1/25/2013	NCMT-4	Zinc Total	0.172	0.09	1.91	0.09	1.91	0.26	0.66
118	3/17/2012	NCMT-2	Aluminum Total	1.77			0.75	2.36	0.75	2.36
119	3/17/2012	NCMT-2	Copper Total	1.5	0.0048	312.50	0.0048	312.50	0.0332	45.18
120	3/17/2012	NCMT-2	Iron Total	3.03			1	3.03	1	3.03
121	3/17/2012	NCMT-2	Lead Total	0.0214	0.21	0.10	0.21	0.10	0.262	0.08
122	3/17/2012	NCMT-2	pH	5.1			6.0 - 9.0			
123	3/17/2012	NCMT-2	Zinc Total	0.933	0.09	10.37	0.09	10.37	0.26	3.59
124	2/27/2012	NCMT-1	Copper Total	0.101	0.0048	21.04	0.0048	21.04	0.0332	3.04
125	2/27/2012	NCMT-1	Zinc Total	0.12	0.09	1.33	0.09	1.33	0.26	0.46
126	2/27/2012	NCMT-2	Copper Total	0.165	0.0048	34.38	0.0048	34.38	0.0332	4.97
127	2/27/2012	NCMT-2	Zinc Total	0.111	0.09	1.23	0.09	1.23	0.26	0.43
128	2/27/2012	NCMT-3	Copper Total	0.00779	0.0048	1.62	0.0048	1.62	0.0332	0.23
129	2/27/2012	NCMT-4	Copper Total	0.0316	0.0048	6.58	0.0048	6.58	0.0332	0.95
130	10/5/2011	NCMT-1	Copper Total	0.383	0.0048	79.79	0.0048	79.79	0.0332	11.54
131	10/5/2011	NCMT-1	Iron Total	5.64			1	5.64	1	5.64
132	10/5/2011	NCMT-1	Zinc Total	0.575	0.09	6.39	0.09	6.39	0.26	2.21
133	10/5/2011	NCMT-3	Copper Total	0.0258	0.0048	5.38	0.0048	5.38	0.0332	0.78
134	10/5/2011	NCMT-3	pH	5.44			6.0 - 9.0			
135	10/5/2011	NCMT-3	Zinc Total	0.264	0.09	2.93	0.09	2.93	0.26	1.02
136	10/5/2011	NCMT-4	Copper Total	0.0742	0.0048	15.46	0.0048	15.46	0.0332	2.23
137	10/5/2011	NCMT-4	pH	5.84			6.0 - 9.0			
138	10/5/2011	NCMT-4	Zinc Total	0.198	0.09	2.20	0.09	2.20	0.26	0.76

*All units are mg/L except pH.

EXHIBIT A

EXHIBIT B

EXHIBIT B

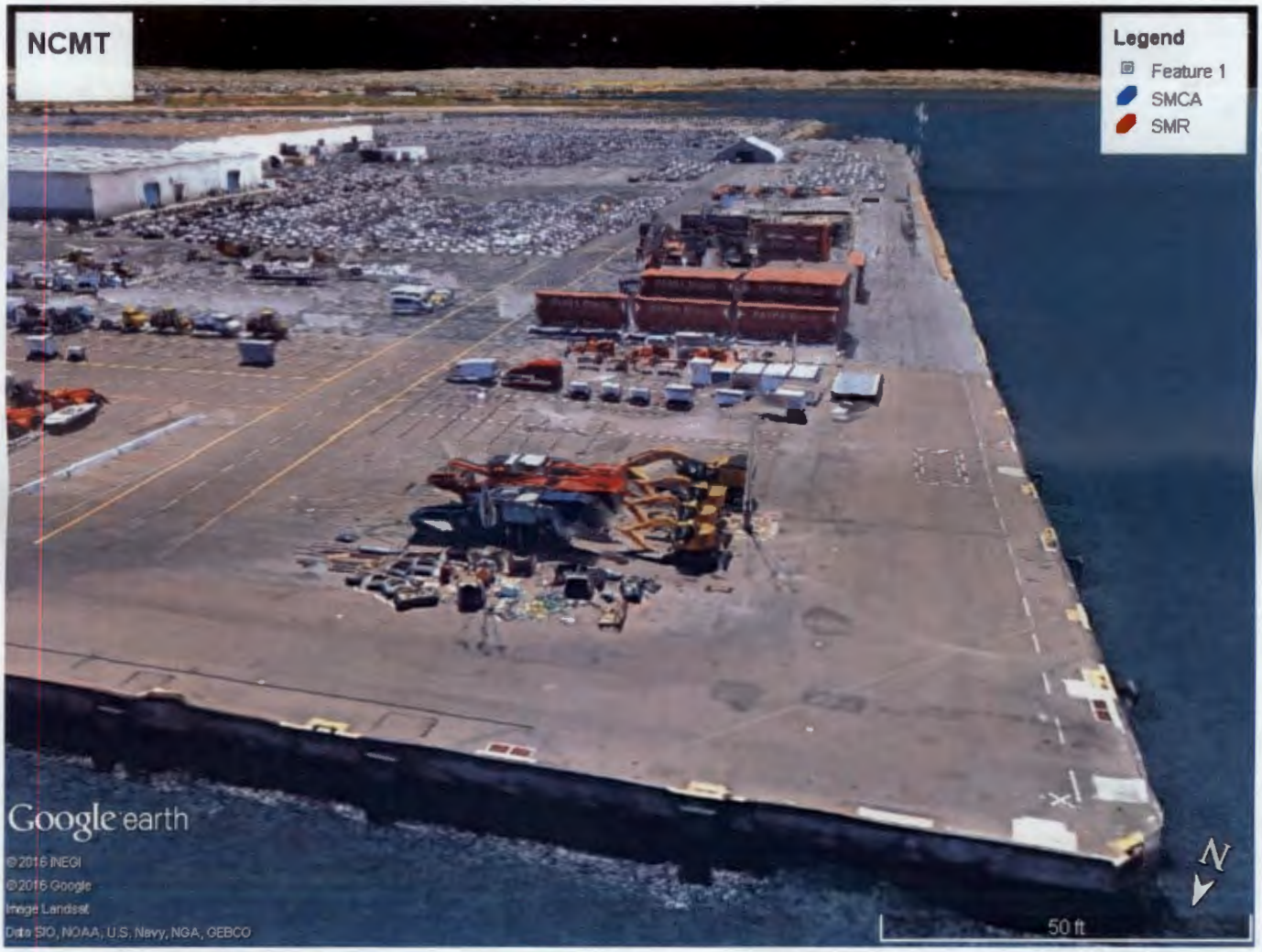
NCMT
Legend
Feature 1
SMCA
SMR
Google earth
© 2016 INEGI
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Image Landsat
Data SIO, NOAA, U.S. Navy, NGA, GEBCO
N
50 ft

EXHIBIT B

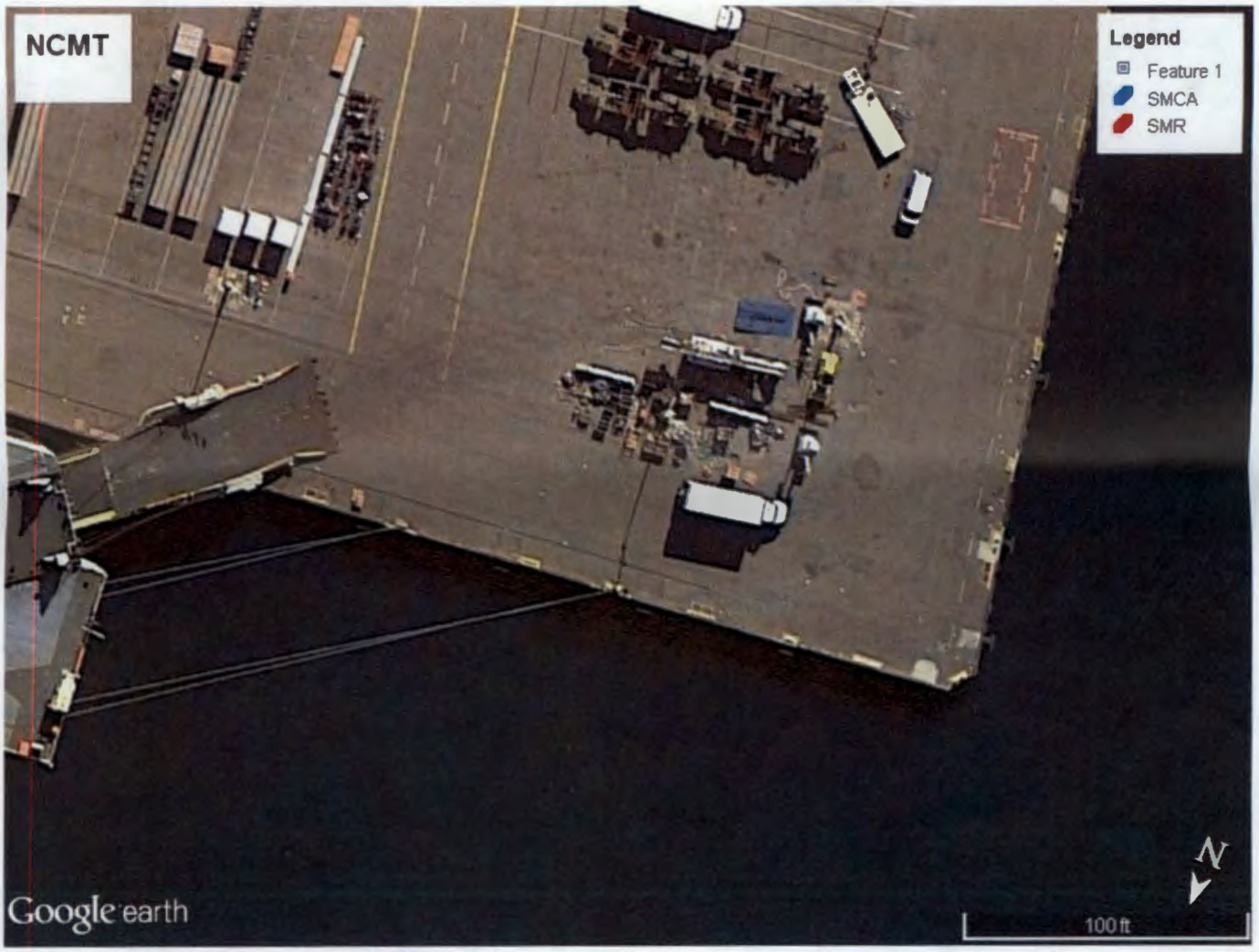

EXHIBIT B

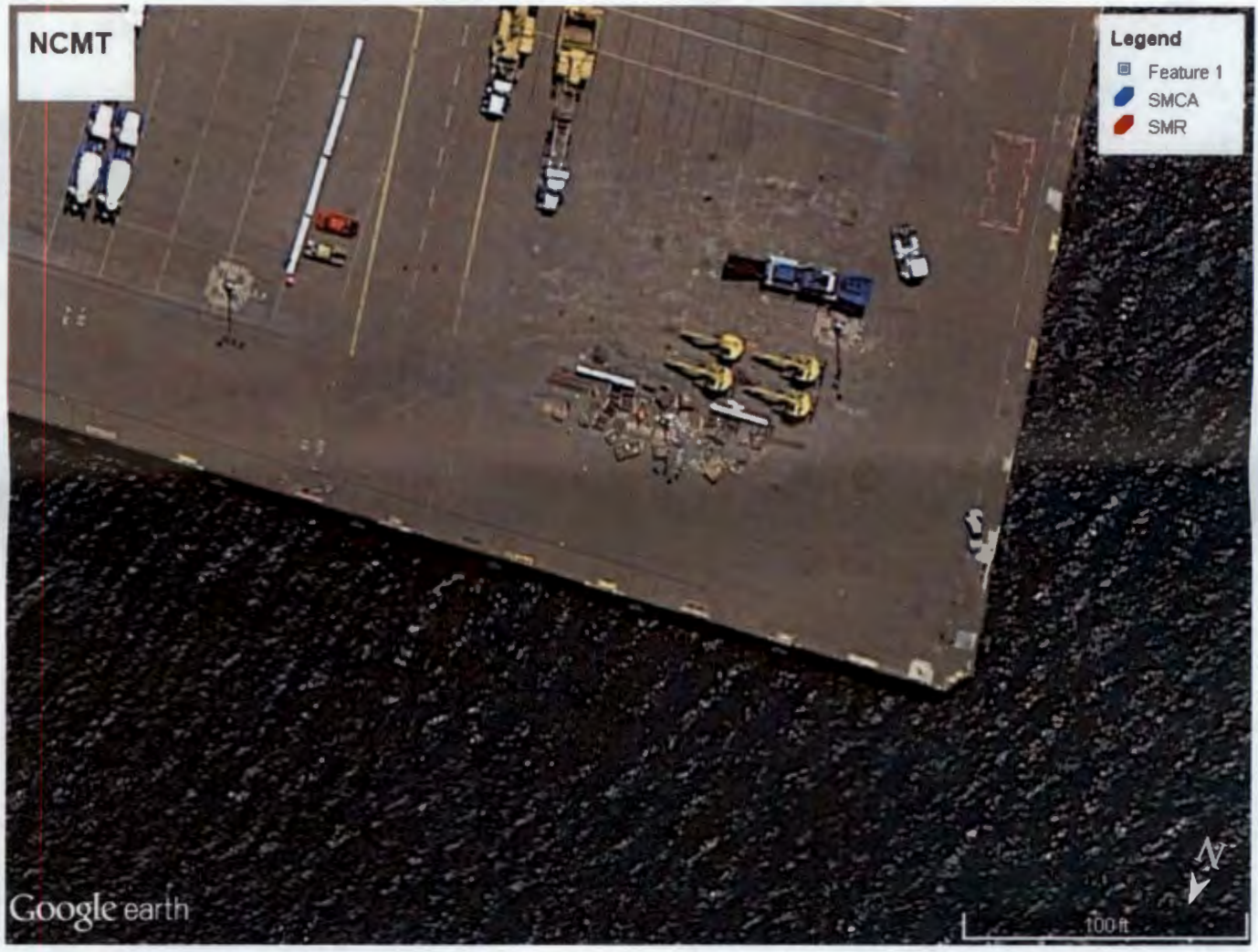

EXHIBIT B